

Exhibit A

**UNITED STATES DISTRICT COURT
DISTRICT OF NEW HAMPSHIRE**

COMMITTEE TO SAVE THE DERRY RAIL
TRAIL TUNNEL and

RAILS TO TRAILS CONSERVANCY,

Plaintiffs,

v.

SHAILEN BHATT, FEDERAL HIGHWAY
ADMINISTRATION, ADMINISTRATOR,

PATRICK BAUER, FEDERAL HIGHWAY
ADMINISTRATION, NEW HAMPSHIRE
DIVISION, ADMINISTRATOR, and

WILLIAM CASS, NEW HAMPSHIRE
DEPARTMENT OF TRANSPORTATION,
COMMISSIONER,

Defendants.

Civil Action No. 1:24-cv-262

DECLARATION OF ALEXANDER V. VOGT

1. I, Alexander Vogt, am a resident of Bedford, NH.
2. I am over 18 years of age and competent to testify to the matters described herein.
3. I am a founding member of the Committee to Save the Derry Rail Trail Tunnel (“the Committee”). The Committee was established in 2024 with the purpose of ensuring that development impacting the Manchester & Lawrence Railroad (“M&L Railroad”) Historic District would preserve the District and the planned extension of the Derry Rail Trail through the inclusion of a tunnel underpass. I

am also a member of the Rails to Trails Conservancy, an organization dedicated to preserving disused railroad corridors for alternative public uses such as trails.

4. As a retired professional civil engineer, I have long admired the feats of railroad engineering required to navigate the hills of New Hampshire and span its rivers. Companies like the M&L Railroad tamed the rugged landscape of New Hampshire into level, gently curving tracks to connect our communities in the 1800s.
5. Although I own several maps showing the early turnpikes and railroads of New Hampshire, I have found there is no substitute for experiencing them in person in order to fully appreciate the feats of engineering involved. Similarly, there is no better way for me to experience the historic M&L Railroad Historic District than by cycling or walking its former right-of-way along those portions that have been developed into rail trails.
6. My wife and I regularly bicycle along those portions of the M&L Railroad that have been converted to rail trails, including the existing Derry Rail Trail. We have cycled sections of the M&L Railroad Historic District from Manchester all the way to the Massachusetts border. I have found that these trails are ideally suited for me and my wife to bicycle on. As I am 71 years old, and my wife is 70, it is difficult for us to bicycle safely and comfortably unless we are on a gently sloping path, like the historic railroad right-of-way, separated from vehicle traffic.
7. As an engineer and a cyclist, I appreciate that the same feats of engineering that made the M&L Railroad Historic District suitable for train travel now make it ideal for use as a recreational rail trail. In turn, I see rail trails as important tools for preserving the engineering history of disused railroads that might otherwise be lost to redevelopment. When I bicycle or walk on the Derry Rail Trail in the

Historic District, I appreciate that the right-of-way retains the feeling of the former railroad in its gentle grades and unbroken sight lines.

8. I am eagerly awaiting the planned connection between the Londonderry and Derry rail trails in a continuous network following the M&L Railroad right-of-way.

Those connections are planned for construction per the approved NHDOT Ten Year Plan dated August 9, 2024 for 2028 in Londonderry (Project 44361) and for 2027 and 2028 in Derry (Project 43736). The Derry section (Project 43736) has been planned to follow the completion of the segment of unpaved right-of-way across the New Hampshire Department of Transportation's proposed project on Folsom Road. Because I am a resident of Bedford, west of Londonderry, completing this segment is important to me. This connection will provide a safe, continuous link from near my home to Derry and beyond. Once the segment is completed, I intend to ride the future expansion of the Derry Rail Trail along the M&L Railroad right-of-way frequently.

9. It is critically important to preserve New Hampshire's former railroad lines for use as rail trails because, once the rail corridor is developed, it is lost forever. The historic railroad lines that remain derive increased dignity, recognition, and historical value from their joint inclusion in a network of connected rail trails.

10. Implementation of the New Hampshire Department of Transportation's proposal to bisect the District with a six-lane highway, used by up to 40,000 vehicles per day according to NHDOT projections, will destroy the historic character and recreational potential of the District in the absence of appropriate mitigating measures. The unbroken sight lines and continuity will be disrupted by the tens of thousands of vehicles, along with approximately 6,500 cubic yards of fill, obliterating the historic landscape of one of the few remaining railroad rights-of-

way. The Exit 4A plans will impact over 1,000 feet of the railroad corridor, erasing the historic railroad engineering and making it totally unrecognizable as a former rail corridor.

11. The M&L Railroad was constructed with a grade of approximately 1% or less to accommodate the requirements of 19th-century locomotives. The NHDOT plan for the trail at North High Street will replace the nearly flat railroad bed with a grade of 4.36% in order to reach Folsom Road, approximately 10 feet above the historic right-of-way. This significant grade will have no resemblance to the historic railroad corridor.

12. The steep grade will be a substantial obstacle for the trail users.

13. Fortunately, the underpass approved by the FHWA in its 2020 Final Environmental Impact Statement and Record of Decision (“the FEIS/ROD”) would preserve those historic qualities and recreational opportunities which would otherwise be destroyed by the intrusion of a modern six-lane road that would fundamentally change the experience of visiting the District. The tunnel would provide visual and geographic continuity by allowing District visitors to walk or bicycle a continuous, uninterrupted route along the right-of-way that is relatively flat and straight, following closely to the original rail alignment. Moreover, continuation of the rail trail along the Historic District will preserve the Historic District from future development. I have personally walked the area where the new highway will cross the existing railroad corridor and have visualized being able to bicycle through a level, grade-separated underpass with my wife. That experience would preserve my ability to appreciate the M&L Railroad Historic District’s unique qualities. I believe that this underpass is the only mitigation measure that will meaningfully preserve the historic qualities of the M&L

Railroad right-of-way and avoid irreparable injury to my ability to enjoy the Historic District.

14. I was distressed to learn that FHWA has recently approved NHDOT's proposal to redesign the Exit 4A project by replacing the underpass with a significant deviation from the M&L Railroad right-of-way to have the trail go under the bridge over Shields Brook. In contrast to the continuous, uninterrupted path along the historic railroad preserved by the underpass, the new design will require visitors to navigate a spaghetti-like detour involving long 4.86% and 4.58% grades, along with multiple right-angle and hairpin turns.
15. I have reviewed the plans that NHDOT has made available. As a civil engineer with over 25 years of professional experience working for the NHDOT, I do not believe that the NHDOT's design is safe for myself or any other cyclist to use. NHDOT's plans indicate that the revised route is designed for a maximum bicycle speed of just 12 miles per hour, well below the 18 miles per hour default design speed prescribed by the American Association of State Highway Transportation Officials (AASHTO) for rail-trails. The AASHTO recommends raising the design speed even higher than 18 miles per hour when, as here, there will be a down slope. I do not believe that other trail users or I will be able to safely use a facility that does not conform to industry standards for safe design. Particularly at our age, my wife and I will not be able to safely navigate these grades and turns. Rather than enjoying a continuous trip from close to our home all the way to Derry on the historic right-of-way, this segment will be a section we will be forced to avoid to ensure our safety.
16. Under the revised plan, the engineering achievements of the M&L Railroad will be buried under thousands of cubic yards of earth, destroying forever the

unbroken sight lines and gentle grades that define a railroad right-of-way. Worse than that, the spaghetti design will be a significant obstacle to my ability to appreciate the remaining unspoiled portions of the Historic District. These changes will significantly and irreparably diminish the historic value and recreational utility of the M&L Railroad Historic District to me.

17. A court order vacating FHWA's approval of the change to the project would redress the injuries to my interests by preventing the New Hampshire Department of Transportation from moving forward with the modified project to build a six-lane highway across the District without the underpass.

I declare, pursuant to 28 U.S.C. § 1746, under penalty of perjury that the foregoing is true and correct.

Executed on September 5, 2024.

By:


Alexander V. Vogt